

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	WC Docket No. 20-445
Emergency Broadband Connectivity Fund	)	
Assistance	)	
	)	
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**COMMENTS OF THE NEBRASKA PUBLIC SERVICE COMMISSION**

The Nebraska Public Service Commission (NPSC) submits these comments in response to the Commission’s Public Notice<sup>1</sup> (PN) released on January 4, 2021. The NPSC appreciates the steps already taken by the Commission to implement the Emergency Broadband Benefit Program (EBBP) prescribed by the Consolidated Appropriations Act.<sup>2</sup> The NPSC also fully supports making affordable broadband service available particularly to those hit hard by the pandemic. To quote Acting Chairwoman Rosenworcel, broadband access is no longer a “nice-to-have” but a “need-to-have.”<sup>3</sup> This is particularly true given the current environment where consumers need connectivity to work and learn from home. Affordability is crucial.

The NPSC wants this program to be successful. While we believe the Commission’s draft rules are consistent with the framework specified by section 904 of the Act, the actual implementation of this program is going to be a significant challenge. State commissions can help.

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, WC Docket No. 20-445, Public Notice (rel. January 4, 2021)(“PN”).

<sup>2</sup> See Consolidated Appropriations Act, 2021, H.R. 133, div. N, tit IX, § 904 (2020).

<sup>3</sup> Statement of Commissioner Jessica Rosenworcel on FCC Seeking Comment on Emergency Broadband Benefit (January 4, 2021).

Our comments focus on a few areas surrounding the implementation of the program. First, we encourage the Commission to consider coordination with the states, utilizing the strengths this partnership can have to help promote public awareness of this program and to coordinate any state funding that has been made available for the same or similar purpose. Second, due to the additional eligibility requirements, we have concerns about how robust the National Verifier will be in determining eligibility. Thus, developing an alternative framework outside of the National Verifier may be necessary. Finally, we recommend the Commission strengthen the requirements in its rules relative to the services delivered and the prices paid by consumers for those services.

### ***State Commission Coordination***

Increasing broadband adoption by making service affordable has been one of the objectives of our state universal service program for some time. In 2014, the NPSC began to offer broadband adoption pilot program support and awarded grants for projects intended to increase broadband adoption and affordability. These projects have had varying degrees of success. Most often, the effort given to promote and create awareness of these programs is directly related to adoption success. We believe other state commissions most likely have similar programs or objectives.

Significantly, as it may be relevant to the EBBP coordination issue, the NPSC allocated \$1 million towards broadband adoption support last March, which was designed to provide free or reduced broadband services to low-income consumers to facilitate online learning and also for Nebraska consumers that had lost their jobs as a result of the COVID-19 pandemic. Support was also made available to establish and maintain free wi-fi hotspots in communities. As the NPSC wanted to cast the widest net

possible, providers were not required to be eligible telecommunications carriers (ETCs) to qualify for this support.

The NPSC extended the program through the end of 2020 but held open for consideration a further extension should funding remain. As a result, many Nebraska providers have already identified consumers qualifying for the EBBP support through the offering of similar relief at the state level and could be ready to participate in this program. Additionally, to the extent that our state coronavirus relief program continues through this next year, we believe it would be helpful to have access to EBBP program information so that we are coordinating support and providing consumers with the best options available. We also want to make sure that we are not duplicating support providers will receive from the EBBP program.

While the NPSC is supportive of the concept that EBBP support should be made available to all willing participants and not just ETCs, it would be helpful for states to have access to information about the participants, services, and prices offered to consumers. One of the valuable aspects of the ETC designation process is that it provides state commissions with this information in order to promote awareness of the availability of services, the speed tiers, and discounts to be offered. It also adds a layer of accountability in case consumers are not receiving the promised services.

In addition, unfortunately, there are actors that prey upon vulnerable consumers in times of crisis. The Federal Trade Commission reports that it has received over 300,000 COVID-19 and stimulus fraud reports amounting to roughly \$301 million in

fraud loss so far this year.<sup>4</sup> Scammers are getting more and more convincing and consumers are getting more and more wary to trust what may be a legitimate source of assistance. The NPSC is concerned that without a more localized independent source providing information about this program, consumers will either be suspicious or reluctant to take advantage of it. Even worse, consumers could be scammed by an illegitimate company posing to offer similar benefits. State commissions have ties to other state agency resources, local community leaders, and school districts. If informed relative to the carrier participants, offered service speeds, and pricing, state commissions can be a resource for consumers. Accordingly, we recommend the Commission coordinate resources to make sure the program is transparent, and the list of providers, service offerings, messaging, and pricing is made available to states. In addition, to the extent that the Commission is aware of providers currently offering discounts under similar provider-initiated to state developed programs, the Commission should be flexible and allow the current verification tools being used to be accepted.

Finally, the Commission should ensure that there is clear and specific guidance requiring carriers to give consumers adequate notice about when the funding will end and what other types of discount plans are available. It would be helpful to the NPSC to have information about the relative dates the service will be ending, along with statistics related to the households served and service offerings consumers received so that we can assist consumers in transitioning off the program and finding alternatives.

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<sup>4</sup> See Federal Trade Commission, COVID-19 and Stimulus Reports (January 1 to January 13, 2021) at <https://public.tableau.com/profile/federal.trade.commission#!/vizhome/COVID-19andStimulusReports/Map> (last visited January 14, 2021)

### ***Participation Requirements for non-ETC Broadband Providers***

While the NPSC believes ETC certification and designation is the best tool available to combat waste, fraud, and abuse, and to ensure that providers are meeting their obligations, the NPSC agrees with the Commission's proposal that any broadband provider seeking to participate make the EBBP benefit available across all of its service areas in each of the states in which it is approved to participate. We think this approach follows the purpose of the Act so that consumers in all areas can have access to this benefit rather than in a few select areas or communities chosen by a provider. We also believe this requirement would decrease the potential for confusion among consumers who may be told that a provider is offering the EBBP, but then later find out it is not available by that provider in their area.

The Commission also proposed that broadband providers adopt a plan to combat waste, fraud and abuse similar to the compliance plans required of non-facilities-based carriers seeking approval to participate in the Lifeline program. The NPSC agrees with this proposal as well, however, the NPSC encourages the Commission to provide some baseline expectations about what is to be included in a compliance plan. To that end, the NPSC recommends the Commission provide a template and require carriers to explain how they will meet those expectations.

### ***National Verifier***

We recognize that there must be a careful balance so that the requirements adopted by the Commission do not deter voluntary participation by carriers. Our concern is that the National Verifier will not be equipped to handle the additional eligible programs. Its heavy reliance may also be a deterrent to non-ETC providers. Given the

programs' limited timeframe it may not be worth expending additional resources to make costly changes to the National Verifier. We encourage the Commission to be flexible when considering documentation needed to verify eligibility in some of the programs. The free and reduced lunch program is one example where localized coordination may be needed. The Commission should be as flexible for consumers as reasonably possible and create a safe and secure way for consumers to provide this information.

To the extent that the National Verifier is utilized for the EBBP, we agree with the Commission's proposal that all participating providers be required to have their agents and other enrollment representatives registered with the Representative Accountability Database as a best practice to minimize waste, fraud, and abuse. We further recommend that states have access to the information so that they can coordinate state-supplemental Lifeline funding and any other COVID-19 relief funding provided to carriers for consumer discounts. Further, we agree with the Commission's suggestion that for providers that use their own alternative verifications process, that such provider identify the process used when enrolling a household in the National Lifeline Accountability Database (NLAD).

### ***Service standards***

Finally, we recommend the Commission add more specificity in its rules related to speed levels, and data caps. With respect to broadband speeds received by consumers, we know that the service needs to be fast and robust enough to enable online learning with multiple family members from home. We encourage the Commission to ensure that the speed disclosed to consumers is not just a goal but a

speed that is actually delivered. To that end, we recommend the Commission specify minimum requirements in its rules and require providers to adhere to them. We recommend the Commission further clarify its expectations as it relates to broadband Internet access service defined by 47 C.F.R. § 8.1 which specifies that it is a “mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.”

The NPSC also recommends the Commission ensure that consumers are not facing extra costs due to data caps imposed by providers. Usage can add up quickly for families with multiple children engaging in online learning. The Commission should prohibit the use of overlimit fees for exceeding data allowances or at the very least structure its rules in such a way that average families are not burdened with the threat of these fees when they are already struggling to pay their bills.

## ***Conclusion***

We appreciate the steps already taken by the Commission to implement the Act. We look forward to helping the Commission reach as many eligible households as it can through this program.

Dated: January 25, 2021.

Respectfully submitted,

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